

RETURN DATE: OCTOBER 5, 2021	: SUPERIOR COURT
	:
SELMA MIRIAM, ET AL.	: J.D. OF FAIRFIELD
	:
VS.	: AT BRIDGEPORT
	:
SUMMIT SAUGATUCK LLC	: SEPTEMBER 13, 2021

VERIFIED COMPLAINT

1 The Plaintiffs, Selma Miriam, Leslie Ogilvy and Christopher Gazzelli, are each owners of certain real property (collectively, the "Plaintiffs' Properties") located within the historic Saugatuck neighborhood of Westport, Connecticut, on a private street known as Hiawatha Lane Extension which extends from the end of Hiawatha Lane, a public highway.

2. The Plaintiffs' Properties on Hiawatha Lane Extension comprise part of a plan for a residential development shown upon a map entitled, "Map of Property Prepared for the Estate of E. Louise Bradley, Gershom Bradley, Admr., Jeanette Hughes, Admx., Westport & Norwalk, Conn., Dec. 6, 1954, Scale 1" = 60', Certified 'Substantially Correct', Martin J. Capasse, Westport, Conn., Surveyor", which plot plan is recorded in the Land Records in the Town of Westport as Map No. 3802 ("Map No. 3802"), which was extended to include the land shown on a map entitled, "Map of Property for Julia Bradley, Westport, Conn. Scale 1"=60', Aug. 1960, Certified Substantially Correct, Martin J. Capasse, Land Surveyor, Westport, Conn.", which plot plan is recorded in the Land Records in the Town of Westport as Map No. 5061 ("Map 5061").

3. Lots 11, 12, 13, 14, 15, 16, 17, 18 and 19 shown upon said Map No. 3802 are located within the City of Norwalk and remain undeveloped wetlands that are currently in the trust of the Norwalk Conservation Commission, however a gravel walking path extends from the end of Hiawatha Lane Extension in Westport into the Norwalk portion of the property.

4. The remaining lots shown upon said Map No. 3802, specifically, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 20, 21 and 22, as well as the lots shown upon said Map No. 5061 (collectively, the "Westport Lots") are located wholly or substantially within the Town of Westport, and within the Saugatuck neighborhood.

5. The Westport Lots were all conveyed subject to the covenant, condition and restriction that only a one-family house shall be erected on each of said Lots (the "One-Family House Restriction").

6. Further, the Westport Lots were conveyed with express and implied rights of way to use the streets shown upon said Maps No. 3802 and No. 5061, i.e., Hiawatha Lane Extension.

7. Westport Lot 3 was later divided into two parcels which were also made subject to the One-Family House Restriction, as shown and noted upon a plot plan entitled, "Revised Map of Plot #3 Prepared for Fred Pascariello, Jr., Westport, Conn., Scale 1" = 60', Aug. 1960, Certified Substantially Correct, Martin J. Capasse, Land Surveyor", which is recorded in the Land Records of the Town of Westport as Map No. 5083; and pursuant to a property agreement, entered into on October 13, 1960, between the then-owners of said Westport Lot 3 and the then-owners of Westport Lots 1, 2, 4, 5, 6, 7, 8, 9, 10, 20, 21 and 22, which property agreement is recorded in the Land Records of the Town of Westport at Volume 191, Pages 391 through 399.

8. Westport Lot 4 was later divided into three parcels, each developed with a one-family house, although one such house, located at 35A Hiawatha Lane Extension, currently has an accessory apartment within it.

9. All of the Westport Lots shown upon said Map No. 3802 and Map No. 5061, including the subdivided Lots 3 and 4, have been uniformly developed and used for one-family houses served by Hiawatha Lane Extension.

10. Hiawatha Lane Extension is a narrow and winding road that is part of a small network of other narrow streets, which network has only a single point of ingress and egress to other public highways, through Ferry Lane West, to Connecticut Route 136, a/k/a Saugatuck Avenue and the larger network of public highways beyond.

11. The Plaintiff, Selma Miriam, owns and resides upon the property located at 29 Hiawatha Lane Extension which is wholly or in substantial part comprised of Lot 2.

12. The Plaintiff, Leslie Ogilvy, owns and resides upon the property located at 27 Hiawatha Lane Extension which is wholly or in substantial part comprised of Lot 1.

13. The Plaintiff, Christopher Gazzelli, owns and resides upon the property located at 37 Hiawatha Lane Extension which is wholly or in substantial part comprised of Lot 5.

14. The Defendant, Summit Saugatuck LLC, is a limited liability company with principle place of business located in Quincy, Massachusetts.

15. The Defendant, Summit Saugatuck LLC, owns or has options to acquire a portion of the land shown on Map No. 3802 and Map No. 5061 including, at least, all or portions of Hiawatha Lane Extension, Lots 6, 7, 8, 9, 10, 20, 21, and 22 shown on Map No. 3802, and Lots A, B and C shown on Map No. 5061 (collectively, the "Summit Property").

16. The Defendant, Summit Saugatuck, LLC, has entered into a settlement agreement with the Westport Planning and Zoning Commission to permit development of the Summit Property for a multi-family housing development having 157 residential dwelling units and associated improvements, including proposed alterations to, encroachments upon, and destruction of portions of, Hiawatha Lane Extension (the "Proposed Development").

17. If not enjoined, the Proposed Development shall violate the One-Family House Restriction to which the Summit Property is subject, and of which the Plaintiffs are beneficiaries as owners of lots that are part of a common uniform development plan, each subject to said One-Family House Restriction, and shall interfere with the rights of the Plaintiffs in and to Hiawatha Lane Extension, all of which shall cause the Plaintiffs specific and irreparable harm.

18. More specifically, the Proposed Development shall irreparably harm and inconvenience the Plaintiffs in, among others, the following ways:

- a. The Proposed Development shall create runoff and cause flooding conditions upon the Plaintiffs' Properties and upon Hiawatha Lane Extension

- b. The health and safety of the Plaintiffs, their family members, tenants and guests shall be irreparably harmed as the result of increased traffic volume along Hiawatha Lane Extension, including by increased numbers of service, delivery and construction vehicles, which shall cause noise, light and air pollution, create vehicle and pedestrian hazards, and exacerbate existing traffic congestion and circulation problems that make it difficult to enter and exit Hiawatha Lane Extension and the adjacent neighborhood via the sole access point at Ferry Lane West.
- c. Greater numbers of vehicles using Hiawatha Lane Extension for on-street parking shall reduce on-street parking available for use by the Plaintiffs, their family members, tenants and guests, and shall further narrow the roadway and impede traffic flow, creating further inconvenience to Plaintiffs and creating risks to their health and safety by impeding or preventing safe and efficient access by emergency responders.
- d. Hiawatha Lane Extension and adjacent streets cannot support, and will be damaged by, the heavy construction equipment and loads of materials needed to construct the Proposed Development.
- e. The Proposed Development shall reduce the value of the Plaintiffs' Properties.
- f. The Proposed Development shall destroy one of the few existing working class neighborhoods in the Town of Westport at the expense of remaining residents.

19. As a result of the foregoing reasons, among others, the Plaintiffs shall suffer irreparable harm for which they have no remedy at law if the Proposed Development is not enjoined and restrained.

WHEREFORE, the Plaintiffs claim:

1. A temporary and permanent injunction enjoining the Defendant from constructing greater than a one-family house on any of the lots owned by the Defendant in the Subdivision in violation of the One-Family House Restriction.
2. Costs of suit; and
3. Such other and further relief as in law and equity may appertain.

THE PLAINTIFFS

BY



JOEL Z. GREEN
GREEN AND GROSS, P.C.

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VERIFICATION


STATE OF CONNECTICUT: September 13, 2021
: ss. Bridgeport
COUNTY OF FAIRFIELD :

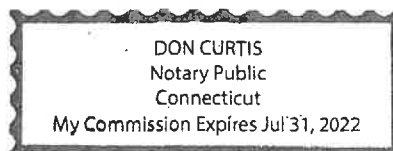
Personally appeared Selma Miriam who, being duly sworn, does depose and say:

1. I am over the age of eighteen years and believe in the obligation of an oath.
2. I am the owner of real property having a street address of 29 Hiawatha Lane Extension in Westport, Connecticut, and have owned and resided upon said property since 1964.
3. I have reviewed the verified complaint in this action and verify that all of the allegations in this complaint are true.


Selma Miriam

Subscribed and sworn to before me this 13th day of September, 2021.


Notary Public
My Commission Expires: 07/31/2022



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AMOUNT IN DEMAND

The amount in demand is in excess of Fifteen Thousand (\$15,000.00) Dollars, exclusive of interest and costs in addition to other relief.

THE PLAINTIFFS

BY



JOEL Z. GREEN
GREEN AND GROSS, P.C.